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HOUSE BILL 2490 By  
Head

SENATE BILL 2560  
By Clabough

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6, Part 2, relative to independent medical examiners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-204(d)(5), is amended by deleting the existing language in its entirety and substituting instead the following:

In case of dispute as to medical impairment rating, if either the employee or employer disputes the attending physician's opinion as to the medical impairment rating, or if the attending physician declines to give an opinion as to a medical impairment rating, the dispute shall be resolved by an independent medical examiner whose findings shall be binding on the parties, the division, and on the court. The finding of such independent medical examiner shall be overcome only by clear and convincing evidence. If the parties are unable to mutually agree on the selection of an independent medical examiner, one (1) of the parties shall provide written notification to the division, with a copy of the notice provided to the other party. Upon receipt of such written notification, the division shall assign a panel of three (3) independent medical examiners chosen at random from a list of independent medical examiners the division shall maintain. When a panel has been

assigned to a matter under this subdivision, the division immediately shall notify the parties by facsimile or email. The division shall make such notification within five (5) working days of the date on which the parties of a dispute informed the division. Each party may strike one (1) name from this panel, and the party disputing the attending physician's opinion shall strike the first name from the panel. Any rejection must be made not later than the third day after the date of notification of the panel's assignment and notification of the name rejected shall be communicated to the division and to the other party by facsimile or email. Neither a trial nor a benefit review conference on this matter shall take place until the finding of the independent medical examiner selected by the division has been filed with the division. All costs and fees for an independent medical examiner shall be born by whichever party disputes the attending physician's opinion. In the event where the attending physician refuses to give an opinion, the costs and fees of the independent medical examiner selected pursuant to this section shall be born equally between the parties.

The commissioner of the division shall establish criteria for inclusion on the list of medical examiners, and the procedures necessary to the implementation of this section by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, on or before January 1, 2003.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.